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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,227	11/26/2003	George Popescu	YOR920030529US1	9155
7590	04/13/2009		EXAMINER	
Moser, Patterson & Sheridan Suite 100 595 Shrewsbury Avenue Shrewsbury, NJ 07702			MURRAY, DANIEL C	
			ART UNIT	PAPER NUMBER
			2443	
			MAIL DATE	DELIVERY MODE
			04/13/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/723,227	POPESCU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL C. MURRAY	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 DEC 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 December 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The replacement drawing sheet(s) received on 18DEC2008 are accepted by the Examiner.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made

in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claim 21** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Filepp et al. (US Patent # 5,758,072)** in view of **Elderton et al. (US Patent # US 6,477,572 B1)** in view further view of **Laiho et al. (US Patent # 6,097,942)** and in further view of **Curtis et al. (US Patent # 5,774,689)**.

a) Consider **claim 21**, Filepp et al. clearly show and disclose, a method for dynamic grouping of clients to support scalable group communications in interactive applications (abstract, column 1 lines 1-36), comprising: identifying an application having an application space (abstract, column 2 lines 52-64, column 5 lines 13-45, column 6 lines 20-25); identifying a plurality of clients of said application such that each of said plurality of clients has a communication interest with said application (abstract, column 1 lines 33-36, column 2 lines 47-64, column 6 lines 20-25); identifying a communication network that handles communications between said plurality of clients and said application and that includes network resources with network characteristics (abstract, column 21 lines 53-62, column 22 lines 48-52, column 23 lines 9-26 lines 44-46, column 24 lines 7-16); partitioning said application space into a plurality of communication interest partitions, each partition of which represents a communication interest of at least one client of said plurality of clients (abstract, column 2 lines 41-64, column 5 lines 13-45, column 6 lines 20-25); indexing the partitions and said network map information to form a multi-type attribute index structure into one of more client groupings (column 2 lines 47-51 lines 52-67, column 3 lines 1-30, column 5 lines 13-45, column 6 lines 20-25, column 72 lines 39-45 lines 52-56, column 75 lines 43-52 ); and forming a hierarchical structure that includes a parent node and at least one control node for communicating

data to said plurality of clients wherein said parent node establishes a communication overlay that directs communications between said plurality of clients and said application (column 1 lines 33-36, column 3 lines 4-30). However, Filepp et al. does not specifically disclose mapping said network resources based on said network characteristics to produce network map information, grouping said plurality of clients based on their communication interest and on said multi-type attribute index structure, that said hierarchical structure is based on said attribute index structure and on the client groupings, or that parent node produces a membership list comprising one or more of said plurality of clients having an interest in at least one of the plurality of communication interest partitions, wherein said membership list maps into one or more communication groups to enable distributed communication between said plurality of clients and said application.

Elderton et al. show and disclose to generating a network topology display to facilitate application deployment in such an environment, wherein mapping said network resources based on said network characteristics to produce network map information (abstract, column 2 lines 1-4 lines 40-49, column 6 lines 4-16 lines 36-51).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate mapping said network resources based on said network characteristics to produce network map information, as taught by, Elderton et al. into the system of Filepp et al. for the purpose of displaying information in a network topology map according to network object attributes (Elderton; column 2 lines 1-4). However, Filepp et al. as modified by Elderton et al. does not specifically disclose grouping said plurality of clients based on their communication interest and on said multi-type attribute index structure, that said hierarchical structure is based on said attribute index structure and on the client groupings, or that parent node produces a membership list comprising one or more of said plurality of clients having an interest in

at least one of the plurality of communication interest partitions, wherein said membership list maps into one or more communication groups to enable distributed communication between said plurality of clients and said application.

Laiho shows and discloses to providing services in a mobile communications network, and more particularly, to defining and updating such services based upon groupings of mobile subscribers wherein, a plurality of clients is grouped based on their communication interest and that a membership list of clients having an interest in at least one communication interest partition, wherein said membership list comprising one or more of said plurality of clients maps into one or more communication groups to enable distributed communication between said plurality of clients and said application (figure 2, abstract, column 2 lines 33-65).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Laiho into the system of Filepp et al. a modified by Elderton et al. for the purpose of grouping clients based on services (i.e. communication interests). However, Filepp et al. as modified by Elderton et al. as modified by Laiho does not specifically disclose grouping clients based on a multi-type attribute index structure or that the structure is a hierarchical structure based on said attribute index structure and on the client groupings.

Curtis et al. show and disclose a provisioning system that enables the creation and management of assignable inventory for digital communication networks. The network configuration system of the present invention is able to logically and electrically configure infrastructure components (IFCs) without requiring a physical relationship for the assignment wherein, objects are grouped based on a multi-type attribute index structure or that the structure is a hierarchical structure based on said attribute index structure and on the client groupings (abstract,

column 3 lines 64-67, column 4 lines 1-8 lines 34-44, column 7 lines 62-64, column 8 lines 13-19, column 9 lines 25-35).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Curtis et al. into the system of Filepp et al. as modified Elderton et al. as modified by Laiho by for the purpose of grouping objects (i.e. applications), and therefore users associated with those objects, by attributes.

### ***Response to Arguments***

6. Applicant's arguments filed 18DEC2008 have been fully considered but they are not persuasive.

Applicant argues that Filepp does not teach "mapping said network resources based on said network characteristics to produce network map information".

Applicant's arguments with respect to claim 21, "mapping said network resources", have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Filepp does not teach "partitioning an application space or basing this partitioning on client communication interests".

The Examiner respectfully disagrees; Filepp clearly discloses partitioning an application space and basing this partitioning on client communication interests. Filepp clearly discloses partitioning the applications (application space) into objects (partitions)(column 5 lines 13-45, column 6 lines 20-25) and that the objects make up one or more partitioned applications (column 5 lines 41-43). Filepp also clearly discloses gathering data regarding usage of the network and applications based on the user's reaction to the application (e.g. frequency of use), organizing the applications into objects that include the data, and that the objects represent all or significant parts

of partitioned applications favored by the user (column 2 lines 41-64, column 6 lines 20-25). Therefore, Filepp clearly discloses the application space (i.e. application(s)) are partitioned and that the partitions (object(s)) represent a communication interest (i.e. frequency/liability of use) of the client.

Applicant argues that Filepp does not teach “discloses indexing the network map and application space partitions”.

The Examiner respectfully disagrees; Filepp clearly discloses indexing the network map and application space partitions. Filepp clearly discloses the applications and application partitions are organized into objects according to associated data which would require an index (column 2 lines 47-67, column 5 lines 13-45, column 6 lines 20-25). Furthermore, Filepp clearly discloses that a partitioned application can be located using the index command, which would require the partitioned application to be indexed (column 5 lines 35-40, column 72 lines 39-45 lines 52-56, column 75 lines 43-52). Filepp clearly discloses indexing the network map and application space partitions.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 2002/0133591 A1
- 5,606,664
- US 6,243,746 B1
- US 2005/0021398 A1
- US 2005/0044255 A1
- US 7,447,785 B2
- US 2007/0156593 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL C. MURRAY whose telephone number is 571-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571)-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DCM/  
Examiner, Art Unit 2443

/Tonia LM Dollinger/  
Supervisory Patent Examiner, Art Unit 2443